

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JAMES EDWARD COOPER,

Plaintiffs,

v.

Case Number 05-10174-BC
Honorable David M. Lawson

MICHIGAN DEPARTMENT OF COMMUNITY
HEALTH and CENTER FOR FORENSIC
PSYCHIATRY,

Defendants.

_____ /

ORDER ADOPTING REPORT AND RECOMMENDATION,
OVERRULING PLAINTIFF'S OBJECTIONS, DISMISSING CASE,
AND DENYING MOTIONS AS MOOT

This matter is before the Court on the plaintiff's objections to a report issued by Magistrate Judge Charles E. Binder on August 10, 2005, recommending that the case be dismissed because the plaintiff had sued defendants immune under the Eleventh Amendment to the Constitution. In his objections, the plaintiff argues that he has been denied access to a library, which he states is a right as clearly established as *Miranda*; he has sued the defendants in both their individual and official capacities; and he has been denied access to the courts. The plaintiff also challenges any attempt to abolish preliminary examinations in Michigan's state courts and claims he was denied such an examination.

Only one of plaintiff's objection addresses the basis on which the magistrate judge made his recommendation. That argument, however, is unavailing. The named defendants in this case are state institutions and cannot be sued in their individual capacities. As the magistrate judge noted, states and their departments are immune from suit under the Eleventh Amendment unless Congress abrogates such immunity or the state otherwise has waived that immunity. *See Pennhurst State*

School & Hosp. v. Halderman, 465 U.S. 89, 100-01 (1984). The plaintiff has not alleged that Congress has abrogated sovereign immunity here or that Michigan has consented to suit. The magistrate judge's conclusion therefore was sound.

The remainder of the plaintiff's objections expresses his frustration with his present situation, but do not address specific portions of the magistrate judge's report and recommendation. As the Sixth Circuit has explained "the failure to file specific objections to a magistrate's report constitutes a waiver of those objections." *Cowherd v. Million*, 380 F.3d 909, 912 (6th Cir. 2004). Consequently, "the objections must be clear enough to enable the district court to discern those issues that are dispositive and contentious." *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995). Aside from the objection noted above, the plaintiff has not pointed to dispositive or contentious issues.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation is **ADOPTED**, the plaintiff's objections are **OVERRULED**, and the case is **DISMISSED WITH PREJUDICE**.

It is further **ORDERED** that the plaintiff's motion for summary judgment [dkt # 26] and motion for discovery [dkt # 12] are **DENIED** as moot.

s/David M. Lawson
 DAVID M. LAWSON
 United States District Judge

Dated: March 31, 2006

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on March 31, 2006.

s/Tracy A. Jacobs
 TRACY A. JACOBS